

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DARLENE L. MATTHEWS, :
Plaintiff, :
vs. : **CIVIL ACTION 07-00427-WS-B**
MICHAEL J. ASTRUE, :
Commissioner of Social Security, :
Defendant. :

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and there having been no objections filed, the Report and Recommendation of the Magistrate Judge made pursuant to 28 U.S.C. § 636(b)(1)(B) and dated November 13, 2007 is hereby **ADOPTED** as the opinion of this Court.

Accordingly, for good cause shown, it is **ORDERED** that Defendant's unopposed Motion and Memorandum for Entry of Judgment Pursuant to Sentence Four of 42 U.S.C. § 405(g) with Remand of the Cause to the Defendant (Doc. 12) be and hereby is **GRANTED**, and that this action is **REMANDED** to the Social Security Administration pursuant to sentence four of 42 U.S.C. § 405(g) with these instructions:

[T]he Appeals Council will remand this case to an Administrative Law Judge (ALJ), who will be directed to contact Plaintiff's treating physician, Dr. Gacek, for an explanation of the term "fullness" and ascertain how, if at all, it limits Plaintiff's functional abilities; and if the ALJ determines to give less than controlling weight to the opinion of Dr. Gacek, articulate reasons why good cause exists to disregard his opinion .

This remand, pursuant to sentence four of Section 405(g), makes Plaintiff a prevailing party

for purposes of the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. Shalala v. Schaefer, 509 U.S. 292 (1993).

DONE this 17th day of December, 2007.

s/WILLIAM H. STEELE
UNITED STATES DISTRICT JUDGE